

# **PLAINTIFF'S EXHIBIT S**

IN THE CIRCUIT COURT OF COOK COUNTY  
COUNTY DEPARTMENT-CRIMINAL DIVISION

3 THE PEOPLE OF THE )  
STATE OF ILLINOIS, )  
 )  
4 Plaintiff, )  
 )  
5 -vs- ) Case No. 90-8602  
 )  
6 LATHIERIAL BOYD, ) Charge: Murder  
 )  
7 Defendant. )

BENCH TRIAL

REPORT OF PROCEEDINGS had in the above-  
entitled cause, before the HON. SHELVIN JINGEL.  
Judge of said Court, on the 16th day of October,  
A.D., 1990.

#### APPEARANCES:

HON. CECIL A. PARTEE,  
Acting State's Attorney of Cook County, 19;  
MS. LORI LEVIN, and  
MR. JAMES BAILEY,  
Assistant State's Attorneys,  
Appeared for the Plaintiff;

MR. EMORY TATE,  
Appeared for the Defendant.

ENGAD/INDY, MUNCIE, IN 47302

SF-1L-248

1 RICKY WARNER,  
2 called as a witness on behalf of the State, having  
3 been first duly sworn, was examined and testified  
4 as follows:

5 DIRECT EXAMINATION

6 BY

7 MS. LEVIN:

8 MS. LEVIN: May I proceed, Your Honor?

9 THE COURT: Please.

10 MR. TATE: Motion to exclude.

11 THE COURT: All right, there is an on-going  
12 motion to exclude witnesses made.

13 Now, is there anybody in here who is a  
14 witness?

15 MS. LEVIN: Judge, there are two people who are  
16 witnesses and they have already testified, and we  
17 are not anticipating recalling them.

18 MR. TATE: And what are their names, please?

19 MS. LEVIN: Mr. Warner and Miss Fleming.

20 MR. TATE: There is an outside possibility that  
21 I may call them at some point if it is necessary,  
22 so I would ask they be excluded.

23 MS. LEVIN: Judge, I --

24 THE COURT: Which one? *162*

1 Q (Continuing by Ms. Levin) After you were  
2 shot, what did you see the Defendant do?

3 A He ran.

4 Q Where did he run?

5 A Across the street. Across the street.

6 Q Then what happened?

7 A He jumped in a car.

8 Q Do you remember what kind of a car?

9 A I think it was -- I think it was white.

10 MR. TATE: May I see that?

11 MS. LEVIN: I am sorry. I thought you had seen  
12 this before.

13 Did you have any guns on you that day?

14 THE WITNESS: No. No. I never carry. No. I  
15 never carry.

16 MR. TATE: Move to strike the last part of the  
17 answer.

18 THE WITNESS: No.

19 THE COURT: Overruled.

20 Q (Continuing by Ms. Levin) Did you in any  
21 way threaten the Defendant?

22 A No.

23 Q Did you say anything to him before he shot  
24 you?

1       she wants to leave at 3:00.

2       THE COURT: All right. Back on the record.

3           Counsel, proceed.

4           Are you ready?

5       Q    (Continuing by Mr. Tate) Besides Ricky,  
6       besides the light that you mentioned at the parking  
7       entrance, were there any other lights that you  
8       observed?

9       A    Yes, sir. The parking sign. That's where  
10      I was.

11      Q    You were near the parking sign?

12      A    Yes, sir.

13      Q    How near were you to the parking sign?

14      A    Pretty close. Pretty close.

15      Q    Ten feet?

16      A    I can't really tell. I was pretty close.

17      Q    Besides your cousin, Mike Fleming, were  
18      there anyone else on the street that you saw just  
19      before you were shot?

20      A    Three other guys. Three other guys.

21      Q    Were these guys White or Black?

22      A    White. White. They was White, sir.

23      Q    And were you talking to these three other  
24      guys?

1 Q And did you go in?

2 A No, I didn't 'cause he couldn't get in.

3 Q What time was this that he couldn't get in?

4 A It was about 11:00, 12:00. Or 12:00.

5 Q What time was it when you saw Rat shoot you?

6 A 2:00 o'clock maybe. I don't remember the  
7 precise time, sir.

8 Q Did you have any marijuana in your posses-  
9 sion that night, that morning?

10 A No.

11 Q Did you have any white powder in your posses-  
12 sion that morning?

13 A No.

14 Q Did Mike Fleming have any white powder in his  
15 possession that morning?

16 MS. LEVIN: Objection.

17 THE WITNESS: I don't remember.

18 THE COURT: Overruled.

19 THE WITNESS: I don't remember.

20 Q (Continuing by Mr. Tate) Well, that night  
21 at 10:00 o'clock on Fulton and Kedzie, had you and  
22 Mike mixed up some white powder at that address?

23 A No, sir.

24 Q You had not?

4(

1 A. No, sir.

2 Q. Well, you were -- you were at that address,  
3 weren't you?

4 A. Yes, sir.

5 Q. And was that -- were you also in the  
6 presence of Charise Parker, Mike's girlfriend?

7 A. Yes. It's my auntie house.

8 Q. Was that 3251 West Fulton?

9 A. Yes, sir.

10 Q. And you and Mike had been watching television,  
11 is that right?

12 A. Yes, sir.

13 Q. And after watching television a while, you  
14 started mixing up some -- pounding some pills into a  
15 white powder, didn't you?

16 MS. LEVIN: Objection.

17 THE COURT: Sustained.

18 Counsel, this is outside the scope.

19 MR. TATE: I can connect it up, Your Honor.

20 THE COURT: How are you going to connect it up?

21 MR. TATE: Because it could be the fake marijuana  
22 or fake cocaine that is already in the record.

23 THE COURT: I didn't hear anything about fake  
24 cocaine; all I heard was about fake marijuana and I

1 don't see how the white powder or the marijuana --

2 THE WITNESS: Me neither.

3 THE COURT: So I will sustain the objection.

4 Proceed.

5 Q (Continuing by Mr. Tate) Ricky, you had  
6 gotten into some trouble with three Black men for  
7 selling them fake cocaine, hadn't you?

8 A No, sir.

9 MS. LEVIN: Objection.

10 THE COURT: Sustained.

11 MR. TATE: Just before this incident?

12 THE WITNESS: No, sir.

13 Q (Continuing by Mr. Tate) These men hadn't  
14 threatened you to hurt you because of fake cocaine?

15 MS. LEVIN: Objection.

16 THE WITNESS: No, sir.

17 THE COURT: Sustain the objection.

18 Q (Continuing by Mr. Tate) Now, while you were  
19 there trying to sell marijuana -- strike that.

20 How long had you been using that location to  
21 sell marijuana?

22 MS. LEVIN: Objection.

23 THE COURT: Overruled.

24 Q (Continuing by Mr. Tate) How long?

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1 answer. Please do not volunteer the answers; just answer  
2 the question. If there's an objection, wait until you  
3 hear a ruling from me. If I overrule the objection, then  
4 you can answer. If I sustain the objection, then you  
5 are not to answer.

6 MR. TATE: With the Court's indulgence.

7 THE COURT: Yes, sir.

8 Q (Continuing by Mr. Tate) Ricky?

9 A Yes, sir.

10 Q I show you again People's Exhibit Number 20,  
11 this piece of paper, and ask you, what date did you  
12 first see this piece of paper?

13 A The date he gave me.

14 Q Yes. What date was that?

15 A I don't remember the date, sir.

16 Q Do you remember the month?

17 A I don't remember the month.

18 Q Do you remember the year?

19 A Yes, sir.

20 Q What year was it?

21 A 1990.

22 Q Was it in the summertime or the wintertime?

23 A Summertime.

24 Q Was it in July, 1990?

1 A I don't remember.

2 Q Was it in May, 1990?

3 A Sir, I told you I don't remember. I know he  
4 gave it to me when he was in his car.

5 Q Do you remember where it was that he gave it  
6 to you?

7 A Yes.

8 Q Where?

9 A In back of his cousin house.

10 Q And what address is that, if you can remember.

11 A It's on -- it's on 15th and St. Charles, sir.

12 Q And who was present at the time he gave it  
13 to you?

14 A His friend.

15 Q Anyone else present besides his friend?

16 A No, there wasn't.

17 Q Do you remember the day of the week that he  
18 gave it to you?

19 A Yes.

20 Q What day of week was it?

21 A Day of week?

22 Was it Monday, Tuesday, or what day was it?

23 A I don't remember the day, sir.

24 Q Do you remember anyone else being present

1 at the time he gave it to you?

2 A No, sir.

3 Q What did he do? He just shoved this at you?  
4 Did he say anything to you?

5 A I'm going to tell you, sir. He wrote the  
6 amounts down there.

7 Q What did he say as he gave it to you?

8 MS. LEVIN: Objection.

9 THE COURT: Sustained. Let the witness finish  
10 the answer.

11 Please proceed with the answer.

12 THE WITNESS: The amount and the money, yes, sir.  
13 It's down there. His friend named Reggie, I met him.

14 Q (Continuing by Mr. Tate) Do you know who  
15 wrote this?

16 A Rat.

17 Q Did you see him write this out?

18 A Sir, I was standing right by the car. I  
19 couldn't do nothing but see it.

20 Q You said you owed Rat some money?

21 A Yes.

22 THE COURT: You have to repeat the answer. I am  
23 sorry, Miss Reporter. Please read the question to the  
24 witness.

1           A    Yes, sir. He -- I seen him run up on me  
2 and I turned around and looked.

3           Q    Was that before the shot or after?

4           A    It was before the shots, sir. That's when  
5 he shot me and left me for dead. I'm paralyzed but  
6 I ain't dead, sir.

7           Q    At the time you saw Mr. Boyd, was he wearing  
8 a hat?

9           A    No, sir. I don't recall wearing a hat.

10          Q    Was he wearing an overcoat?

11          A    I don't think so. Yes, sir. I think so.

12          Q    He was wearing an overcoat?

13          A    I don't remember. I don't really remember  
14 what he had on. I really don't remember what I had on,  
15 sir.

16          MR. BAILEY: Judge, I think he is confused.  
17 I think he is asking him --

18          THE COURT: Counsel, Counsel, I understand. If  
19 there's an objection, object.

20          MS. LEVIN: Object.

21          THE COURT: I don't know what you're objecting to  
22 now.

23                   Proceed.

24          MR. TATE: Thank you. With the Court's indulgence?

1                   MR. BAILEY: Judge, I apologize. The machine is a  
2 little loud and I have trouble hearing you sometimes.

3                   THE COURT: I will shout it out.

4                   MR. BAILEY: Thank you, Judge.

5                   Q       (Continuing by Mr. Tate) When you say the  
6 Defendant Rat jumped into a car, did you see him jump  
7 into a car?

8                   A       No, sir.

9                   Q       You don't know if he got into a car or not,  
10 do you, sir?

11                  A       Yeah, I know. It was like a white car.

12                  Q       You saw him get into a white car?

13                  A       Yes. A white car, sir.

14                  Q       After you were shot?

15                  A       I didn't black out, sir. I seen him run  
16 off and I looked and seen the car. White. I think  
17 the car was white, sir.

18                  Q       Did you talk to anybody from the State's  
19 Attorney's Office today before you testified?

20                  A       No, sir. What? Yes.

21                  Q       You did talk with the State's Attorney  
22 today before you started testifying?

23                  A       No, sir. I didn't talk to 'em.

24                  Q       Before today do you recall talking with the

1 State's Attorney?

2 A. One time, sir, yes.

3 Q. When was that that you can recall?

4 A. A couple of weeks. I think so, sir; a couple  
5 of weeks ago. Couple weeks.

6 Q. And do you see that person you talked to in  
7 the courtroom?

8 A. Yes.

9 Q. Would you point her out for the record?

10 A. She is wearing red, sir.

11 MS. LEVIN: Judge, I guess he made an identification  
12 of me.

13 THE COURT: For the record, Miss Levin.

14 Q. (Continuing by Mr. Tate) Before that time  
15 had you talked with her?

16 A. Yes.

17 Q. When was that, if you can recall?

18 A. I don't remember.

19 Q. Now, on March 9th, 1990, when you were  
20 talking with Detective Zabelewski, did you tell him  
21 to go and talk to your father, Mr. Warner?

22 A. Yes, I did.

23 Q. Did you tell him that your father would help  
24 find the man that shot you?

1 A No.

2 Q What did you tell him?

3 A I told him Rat shot me. That's what I told  
4 him. I told him the guy shot me.

5 Q Had you also told him that you didn't know  
6 who shot you that day?

7 A No.

8 THE COURT: Counsel, that has been asked and  
9 answered. I really -- I'm trying to go as long as  
10 I can, but please, once a question has been asked and  
11 answered, that's the end of it.

12 MR. TATE: Well, Your Honor, I was simply trying  
13 to establish the continuity.

14 THE COURT: Well, you should have established  
15 the continuity when you asked him that question and  
16 it was answered. You should have gone on to say that  
17 which -- the precursor of the question that comes  
18 after that foundation.

19 MR. TATE: Very well, Your Honor.

20 THE COURT: Proceed.

21 Q (Continuing by Mr. Tate) Now, you testified,  
22 Mr. Warner, that you heard shots at the time you were  
23 shot. How many shots did you hear?

24 MS. LEVIN: Objection. That was not his testimony. 5

217

1 THE WITNESS: I heard shots before.

2 MS. LEVIN: Thank you.

3 THE COURT: Sustain the objection.

4 THE WITNESS: Yes. That was before I got shot,  
5 sir.

6 Q (Continuing by Mr. Tate) You heard shots  
7 before you got shot?

8 A Yes, sir.

9 THE COURT: Counsel, this is about the fourth time  
10 you have asked that question. Please.

11 THE WITNESS: Yes, tell me. Tell me, please.

12 THE COURT: Please, Counsel.

13 THE WITNESS: Yes, please. Please.

14 THE COURT: Wait a minute, Mr. Warner. I am very  
15 patient, but you can't go over the same territory  
16 again and again.

17 MR. TATE: All right, Your Honor. I withdraw  
18 the question.

19 THE COURT: It has been answered.

20 Q (Continuing by Mr. Tate) Now, before you  
21 were shot, Mr. Warner--

22 A Yes, sir.

23 Q -- were you thrown out of the Wild Hair  
24 Tavern on Clark Street?

1 MS. LEVIN: Objection.

2 THE COURT: Overruled.

3 THE WITNESS: No, I wasn't.

4 Q (Continuing by Mr. Tate) Didn't the manager  
5 of the Wild Hair Tavern tell you that you were selling  
6 fake cocaine and that you couldn't come in there any  
7 more?

8 MS. LEVIN: Objection.

9 THE COURT: Sustained.

10 THE WITNESS: No.

11 THE COURT: Sustain the objection.

12 Q (Continuing by Mr. Tate) Were you made aware  
13 that some of your customers were out to hurt you because  
14 of the fake cocaine?

15 MS. LEVIN: Objection.

16 Judge, I don't --

17 THE COURT: Sustained.

18 THE WITNESS: No, sir.

19 THE COURT: The objection was sustained.

20 MR. BAILEY: When the Judge says "sustained," --

21 THE COURT: The objection was sustained.

22 Mr. Bailey, your sole purpose is to hold that  
23 microphone --

24 MR. BAILEY: Thank you, Judge.